

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of)

MILLER AND LIEB )  
WATER COMPANY, INC., nka HAWAIIAN )  
BEACHES WATER COMPANY, INC. )

DOCKET NO. 2006-0442

For Review and Approval of (a) a )  
Rate Increase and Revised Rate )  
Schedules and (b) Certain Financing )  
Arrangements for New Utility )  
Improvements. )

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DIV. OF CONSUMER ADVOCACY  
DEPT. OF COMMERCE AND  
CONSUMER AFFAIRS  
STATE OF HAWAII

DECISION AND ORDER NO. 23469

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DIV. OF CONSUMER ADVOCACY  
DEPT. OF COMMERCE AND  
CONSUMER AFFAIRS  
STATE OF HAWAII

Filed May 31, 2007

At 2 o'clock P.M.

Karen Higashi  
Chief Clerk of the Commission

ATTEST: A True Copy  
KAREN HIGASHI  
Chief Clerk, Public Utilities  
Commission, State of Hawaii.

Karen Higashi

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Decision and Order No. 23469

By this Decision and Order, the commission adopts Proposed Decision and Order No. 23423, filed on May 8, 2007 ("Proposed Decision and Order"), as its Decision and Order in this proceeding. In doing so, the commission conditionally approves an increase of additional revenues of \$374,134, or approximately 118.0%, over revenues at present rates for services rendered by MILLER AND LIEB WATER COMPANY, INC. ("Miller & Lieb"), now known as HAWAIIAN BEACHES WATER COMPANY, INC. ("HBWC").<sup>1</sup>

'In March 2007, the commission conditionally approved the joint application filed by Miller & Lieb and HBWC to sell and transfer Miller & Lieb's utility assets and operations to HBWC ("Change of Control"). See In re Miller and Lieb Water Company, Inc. and Hawaiian Beaches Water Company, Inc., Docket No. 2006-0437, Decision and Order No. 23313, filed on March 21, 2007. By letter dated and filed on April 3, 2007, HBWC notified the commission that the Change of Control became "effective" on April 1, 2007; that HBWC had assumed and succeeded to all of Miller & Lieb's interest in this proceeding; and therefore, Miller & Lieb should now be referred to as HBWC.

I.

Proposed Decision and Order No. 23423

On May 8, 2007, the commission timely issued the Proposed Decision and Order, as mandated by HRS § 269-16(f), and in connection with HBWC's Application filed on November 8, 2006.<sup>2</sup> In the Proposed Decision and Order, the commission conditioned its approval of the increase in additional revenues of \$374,134, or approximately 118.0%, over revenues at present rates for HBWC's services on the issuance of a subsequent and separate commission order approving the proposed financing and mortgaging of certain water system improvements, including the drilling and outfitting of a new water production well and pump and associated storage facilities under HRS §§ 269-17 and 269-19 ("Financing Issue"). Related to this condition, the commission required: (A) HBWC to file the loan commitment papers and a written update to support its financing request detailing, at minimum, the terms and conditions regarding the loans (related to the USDA and HEDCO programs, as applicable)<sup>3</sup> and a narrative to

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<sup>2</sup>On November 8, 2006, HBWC filed its Application; Exhibits MLW 1 - MLW 10; Exhibit MLW-T-100; Exhibit MLW-T-200; Verification (a notarized version of which was filed on November 13, 2006); and Certificate of Service (collectively, the "Application").

The DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate"), is an ex officio party to this proceeding pursuant to Hawaii Revised Statutes ("HRS") § 269-51 and Hawaii Administrative Rules § 6-61-62. HBWC and the Consumer Advocate, the sole parties to this proceeding, are hereafter collectively referred to as the "Parties."

<sup>3</sup>"USDA" is the acronym for the United States Department of Agriculture while "HEDCO" is the acronym for Hawaii Economic Development Corporation.

support its request for commission approval under HRS §§ 269-17 and 269-19, as soon as practicable; and (B) the Consumer Advocate to file its position statement with regards to the Financing Issue, within fifteen (15) days of HBWC's filing.

Related to the above, the commission approved, in part, and denied in part, the Parties' "Stipulation of Settlement Agreement in Lieu of [HBWC's] Rebuttal Testimonies" filed on April 4, 2007 ("Stipulation"). In particular, the commission denied: (A) the Parties' agreement to implement a volumetric rate of \$2.07 starting on July 1, 2009, or six months after the implementation of the fourth phase of the rate increase; and (B) the stipulated July 1, 2007 effective date of the first phase of the rate increase. Instead, the commission ordered that the effective date of the first phase of the rate increase shall be July 1, 2007 (as agreed-upon) or upon issuance of a subsequent and separate commission order approving the Financing Issue, whichever is later. Through its partial approval of the Stipulation, the commission authorized HBWC to increase its rates to produce additional revenues of \$374,134, or approximately 118.0%, over revenues at present rates, representing an increase in HBWC's revenue requirement to \$691,294 for the test year ending December 31, 2007 ("Test Year") based on a stipulated 9.0% rate of return on HBWC's stipulated average rate base for the Test Year. The commission ordered that the effective date of the rate increase would be consistent with the commission's determination related to the matters discussed in the paragraph directly above.

Furthermore, the commission ordered HBWC to continue charging its customers the \$48.06 monthly service charge, after implementation of the fourth phase, until a reasonable and more reflective volumetric rate can be determined in HBWC's next rate proceeding. To this end, the commission ordered HBWC to file an application for review of its rates in a rate proceeding six months after it completes its meter installation program or when sufficient data is available for HBWC to propose and support a rate design that includes a volumetric rate, whichever is earlier.

The commission also instructed the Parties to notify the commission, within ten days of the date of the Proposed Decision and Order, as to whether they each accept, in toto, or do not accept, in whole or in part, the Proposed Decision and Order, as mandated by HRS § 269-16(f)(3). The commission also instructed HBWC to promptly file its revised tariff sheets and rate schedules for the commission's review and approval ("Revised Tariff").

## II.

### The Parties' Acceptance of the Proposed Decision and Order

By letter dated and filed on May 10, 2007, the Consumer Advocate notified the commission that it does not object to the Proposed Decision and Order. Subsequently, on May 17, 2007, HBWC notified the commission that it accepts, in toto, the Proposed Decision and Order.<sup>4</sup> HBWC also informed the

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<sup>4</sup>HBWC's letter dated and filed on May 17, 2007.

commission that it had recently received partial approval of the loan program administered by the HEDCO and is currently working on obtaining the entire financing approval by the end of May 2007. HBWC anticipates receiving all of the required loan commitment documents shortly and asserts that it will file the required information and supporting documents with the commission and the Consumer Advocate in accordance with the commission's orders regarding the Financing Issue. Additionally, HBWC states that it plans to submit its Revised Tariff subsequent to the issuance of the order approving the Financing Issue since the effective date of the rate increase approved by the commission in the Proposed Decision and Order is conditioned on the issuance of a separate and subsequent order approving the Financing Issue.

### III.

#### Adoption of the Proposed Decision and Order

As the Parties have accepted the Proposed Decision and Order, they are not entitled to a contested case hearing and HRS § 269-15.5, governing the appeal of commission decisions, does not apply. In light of the foregoing, the commission hereby adopts the Proposed Decision and Order as its Decision and Order in this proceeding. Additionally, due to the unique circumstances of this docket, HBWC's plans with regards to the filing of the Revised Tariff appear to be reasonable.<sup>5</sup>

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<sup>5</sup>The commission does not find it necessary to further address this matter since HBWC's plans regarding its Revised Tariff do not directly conflict with the commission's requirements.

IV.

Orders

THE COMMISSION ORDERS:

1. Proposed Decision and Order No. 23423, filed on May 8, 2007, is adopted as the commission's Decision and Order in this proceeding.

2. The Parties shall fully comply with the regulatory requirements set forth in the Proposed Decision and Order, as soon as reasonably practicable. The failure to comply with any of the requirements described in the Proposed Decision and Order, may constitute cause to void this Decision and Order, and may result in further regulatory action as authorized by the laws of the State of Hawaii.

DONE at Honolulu, Hawaii MAY 31 2007.

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By Carlito P. Caliboso  
Carlito P. Caliboso, Chairman

By John E. Cole  
John E. Cole, Commissioner

APPROVED AS TO FORM:

Michael Azama  
for Ji Sook Kim  
Commission Counsel

2006-0442.cp

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 23469 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

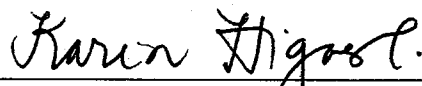
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DATED: MAY 31 2007